IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

MFA.No. 1055 of 2001(B)

OPMV.1937/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA
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APPELLANT:
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1. THRESIAMMA ANTONY ALIAS ANSAMMA, PARAMBATHU ABISH BHAVAN, AVALOOKUNNU P.O., KOTTANKULANGARA WARD, ALAPPUZHA.

2. ABHISH ANTONEY, (MINOR), S/O.THRESSIAMMA ANTONY ALIAS ANSAMMA, PARAMBATHU ABISH BHAVAN, AVALOOKUNNU P.O., ALAPPUZHA.

   (MINOR REPRESENTED BY HIS MOTHER AND GUARDIAN THRESIAMMA ANTONY ALIAS ANSAMMA, PARAMBATHU ABISH BHAVAN, AVALOOKUNNU P.O., ALAPPUZHA)

BY ADV. SRI.N.P.SAMUEL
SRI.P.BINNY JOSEPH

RESPONDENTS:
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1. BALAN VIJAYAN, S/O.BALAN, BALAGOKULAM, ARASUMMOODU KULATHUR POST, THIRUVANANTHAPURAM.

2. ANILKUMAR, S/O.PAVITHRAN, NIKARTHIL VEEDU, WEST ST.LAWRENCE CHURCH, COCHIN CORPORATION DIVISION NO.22, COCHIN, ERNAKULAM DISTRICT.

3. THE ORIENTAL INSURANCE COMPANY LTD., ROHINI BUILDINGS, THAKARAPARAMBU ROAD, PAZHAVANGADY, THIRUVANANTHAPURAM, REPRESENTED BY ITS BRANCH MANAGER, ORIENTAL INSURANCE COMPANY LTD., CULLEN ROAD, MULLACKAL, ALAPPUZHA.

BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)
SRI.ALEXY AUGUSTINE

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 7.12.2007, THE COURT ON 07/12/2007 DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.1055 OF 20O1

Dated this the 7th day of December, 2007

JUDGMENT

Koshy, J.

The first appellant filed a petition claiming compensation contending that his son, aged 19 years, died in a motor accident due to the negligence of the second respondent driver of the vehicle insured by the third respondent Insurance Company. While the deceased was driving the scooter, the vehicle driven by the second respondent hit the scooter. According to the petitioners, even though the deceased passed only SSLC, he had Computer Diploma and was earning Rs.3,000/- per month in a part-time employment and he was also studying for Pre-Degree. The Tribunal accepted the contention of the petitioners that the deceased was earning Rs.3,000/- per month. Even though we doubt the correctness of the above certificate, we take into account the future prospects also. In any event, Rs.3,000/- fixed as monthly income needs no further enhancement. It is contended that the mother was unemployed and father died before the accident and mother and younger brother were depending upon the income of the deceased. In the case of

death of an unmarried person, the Supreme Court held that the age of the person has to be taken into account for fixing compensation. Accordingly, considering the age of the mother, 15 was taken as the multiplier. We see no reason for interference in the multiplier taken by the Tribunal. The Tribunal has deducted one-third of the income and calculated the compensation. With regard to the pain and suffering, it was submitted that 18 injuries were sustained on the deceased. Even though he was taken to the Medical College Hospital, he died on the scene itself and only Rs.5,000/- was awarded for pain and suffering. Considering the fact that since there were 18 injuries, we award Rs.10,000/- for pain and suffering, instead of Rs.5,000/-. We find that since just and reasonable amounts were awarded on other heads, no interference is necessary. The additional amount of Rs.5,000/- should be deposited by the third respondent Insurance Company with 7.5% interest over and above the amount decreed by the Tribunal. On deposit of the above amount, the first appellant is allowed to withdraw the same. The appeal is allowed, partly.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.1055 OF 2001

JUDGMENT

7.12.2007